

Seattle-First National Bank and Financial Institution Employees of America, Local No. 1182, chartered by United Food and Commercial Workers International Union, AFL-CIO. Cases 19-CA-11364 and 19-AC-23

November 18, 1982

SUPPLEMENTAL DECISION AND ORDER

On September 28, 1979, the National Labor Relations Board issued its Decision and Order in Case 19-CA-11364¹ finding that the Respondent had violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended, by refusing to recognize and bargain with Financial Institution Employees of America, Local No. 1182, after it had affiliated with United Food and Commercial Workers International Union, AFL-CIO,² and changed its name from Firstbank Independent Employees Association (herein FIEA) to Financial Institution Employees of America, Local No. 1182.³ The Respondent was ordered to recognize and bargain with the newly affiliated Union. On June 27, 1980, the United States Court of Appeals for the Ninth Circuit granted the Board's motion to withdraw the record on review, and the parties were notified on October 30, 1980, that the Board had decided, *sua sponte*, to reconsider its decision and that statements of position could be submitted. The Board received timely statements of position from the Charging Party and the Respondent.

The Board has reconsidered its decision in light of the entire record and the statements of position and, for the reasons set forth herein, has decided to dismiss the complaint in Case 19-CA-11364 in its entirety, and to dismiss the petition and revoke the amended certification in Case 19-AC-23.

The facts have been fully set forth in the Board's Decision and Amendment of Certification, 241 NLRB 751. Briefly summarized they are as follows: FIEA was certified by the Board on November 30, 1970. The parties entered into their initial collective-bargaining agreement in 1971. The most recent collective-bargaining agreement was terminated by the Respondent in 1977.

¹ 245 NLRB 700.

² Initially, the Local affiliated with Retail Clerks International Union, AFL-CIO. Thereafter, the International merged with Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, creating the United Food and Commercial Workers. In Case 19-CA-11364 the Board amended the name of the Charging Party. 245 NLRB 700 at fn. 1.

³ As a result of its affiliation FIEA petitioned the Board to amend its certification. The petition was granted and an Amendment of Certification was issued at 241 NLRB 751 (1979). Thereafter, the Respondent refused to recognize and bargain with the affiliated Union. Accordingly, because of the relationship between Case 19-CA-11364 and Case 19-AC-23 the Board has decided, *sua sponte*, to consolidate them.

In 1977 the executive council of FIEA unanimously agreed to seek affiliation with the Retail Clerks. Meetings were held, which were open to all unit members, throughout the State of Washington. At these meetings the affiliation was discussed along with voter eligibility requirements. Eligible to vote were current FIEA members and those who joined by January 19, 1978. In addition to the meetings, letters were sent to all unit members explaining, *inter alia*, the eligibility requirements. Thereafter, the Washington State Public Employment Relations Commission conducted a secret-ballot election. Ballots were mailed to 2,624 union members; there was approximately 4,800 employees in the unit. Of the union members, 1,206 voted for affiliation and 774 against. On April 1, 1978, FIEA was granted a charter by the Retail Clerks.

The Respondent argues, *inter alia*, that the affiliation election is invalid because only members of FIEA were permitted to vote. In accordance with our recent decision in *Amoco Production Company*,⁴ this contention is correct. The issue in *Amoco*, as here, was the validity of a "members only" affiliation vote. The Board held that an affiliation vote in which nonmembers are not permitted to vote violates fundamental due-process standards.

In this case nonmembers were not permitted to vote in the affiliation election. Accordingly, the election did not meet minimal due-process standards and the affiliation was improper. The Respondent, therefore, did not violate Section 8(a)(5) of the Act when it refused to bargain with Financial Institution Employees of America, Local No. 1182, chartered by United Food and Commercial Workers International Union, AFL-CIO.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that its Decision and Order in Case 19-CA-11364 (245 NLRB 700) be vacated and the complaint be, and it hereby is, dismissed in its entirety.

IT IS FURTHER ORDERED that the Board's Decision and Amendment of Certification issued in Case 19-AC-23 (241 NLRB 751) be, and it hereby is, vacated.

IT IS FURTHER ORDERED that the petition in Case 19-AC-23 be, and it hereby is, dismissed.

MEMBERS FANNING and ZIMMERMAN, dissenting:

An affiliation election is nothing more than an internal union matter upon which the Board gener-

⁴ 262 NLRB 1240 (1982) (Members Fanning and Zimmerman dissenting).

ally will not intrude. For this reason, and as more fully set forth in our dissenting opinion in *Amoco Production Company*,⁵ we would find that the affili-

ation election conducted herein fully met adequate due-process requirements and reaffirm the original decisions.

⁵ 262 NLRB 1240 (1982).